



April 8, 1999

Ms. Paige C. Kyle
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P.O. Box 460606
San Antonio, Texas 78246-0606

OR99-0938

Dear Ms. Kyle:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123333.

The North East Independent School District (the "NEISD"), which you represent, received requests for the driving records of Lynn Wood, an NEISD employee, in addition to the driving records and documentation of NEISD treatment of seven other NEISD employees. You have supplied responsive information for our review.¹ You raise Government Code sections 411.097(c) and 552.102 as grounds for withholding this information. We have considered the pertinent exceptions and have reviewed the documents at issue.

Government Code section 411.097 authorizes school districts and certain other entities to obtain "criminal history record information." You argue that the subject driving records are made confidential by subsection (c) of that statute. However, driving records are specifically excluded from the definition of "criminal history record information." See Govt. Code § 411.082.(2)(B). These records are therefore not made confidential by Government Code section 411.097(c).

Section 552.102 of the Government Code protects "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The protection of section 552.102 is the same as that of the common-law right to privacy under Government Code section 552.101. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Information is protected from public

¹We note that you have redacted identifying information from the submitted documents. You have therefore failed to submit that information for our review and it is presumed public. See Gov't Code § 552.302. Unless the redacted information is made confidential by law, it must be released to the requestor.

disclosure by the common-law right of privacy under section 552.101, if and only if (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities and (2) there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 611 (1992) at 1. From our review of the responsive information, we conclude that none of this information is protected by common-law privacy rights. Therefore, the subject information may not be withheld under section 551.102 of the Government Code.

The submitted documents contain information that is subject to section 552.130 of the Government Code, which provides in pertinent part:

- (a) Information is excepted from [required public disclosure] if the information relates to:
 - (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Texas driver's license numbers and driving records constitute information that relates to a motor vehicle operator's or driver's license issued by an agency of this state. Chapter 730 of the Transportation Code does not include an applicable release provision for the subject information. This information must therefore be withheld pursuant to Government Code section 552.130.²

The submitted documents also contain information that may be excepted from public disclosure by section 552.117 of the Government Code. Section 552.117 excepts from required public disclosure the home addresses, home telephone numbers, social security numbers, or personal family members information of public employees who request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold this information if a current or former employee or official requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989). We have marked the submitted information in accordance with the above discussion.

²We have previously held that the driving records of school bus drivers was not excepted from disclosure by section 552.130 of the Government Code. That holding was subsequently overruled.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Burns". The signature is fluid and cursive, with the first name "Michael" being more prominent.

Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 123333

encl. Submitted documents

cc: Mr. Michael R. Latimar
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(w/o enclosures)